

An Islamic Legal Review of the Imposition of Food Taxes on Consumers: A Normative Study According to the Imams of the Schools of Thought

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Abstract

Food tax is a tax on services provided by restaurants, food stalls, canteens, and similar establishments. The state sets this regulation, so restaurants are obliged to comply with it. However, a problem arises when a buyer purchases food at the price listed on the restaurant's menu, only for the seller to change the price at the time of payment. The objective of this study is to examine the concept of taxation from an Islamic legal perspective, as well as the opinions of Islamic legal scholars on the collection of food tax from consumers. This study employs a qualitative research method with a normative legal approach. The data sources used in this study are secondary, namely, data obtained from literature reviews. The data were analyzed using a qualitative descriptive method. The results of the study indicate that imams across Islamic schools of thought agree that the state may levy taxes (*dharibah*) under certain conditions, particularly when the state treasury is insufficient to meet general needs such as security, welfare, and public services. This permissibility is based on the principles of the public interest and justice, provided that the tax is not levied unfairly and is genuinely used for the benefit of society. However, commercial practices involving *gharar*—that is, uncertainty or a high element of speculation in a contract—are not permitted, as this may harm one of the parties and contravene the principle of justice in *muamalah*.

Keywords: Islamic Law, Food Tax, Islamic Scholars, Consumer Protection & Fiqih Muamalah

Introduction

The taxation sector is the primary source of the Indonesian state's revenue, derived from its citizens. Taxes are regarded as levies that the government may officially collect in accordance with existing regulations. In the realm of local government, to improve public services and carry out development, local authorities require adequate funding. One such source of funding is Local Own-Source Revenue (*Pendapatan Asli Daerah* [PAD]). As PAD is expected to be the primary funding source for local development programs, local governments must optimize local revenue to bear development costs independently.¹

Under Law No. 28 of 2009 on Regional Taxes and Fees, Article 2, paragraphs (1) and (2), outline the types of taxes applicable at the provincial and regency/municipal levels. Provincial taxes include motor vehicle tax, vehicle name change fees, vehicle fuel tax, surface water tax, and tobacco tax. Conversely, local taxes include hotel tax, restaurant tax, entertainment tax, advertising tax, street lighting tax, tax on non-metallic minerals and rocks, parking tax, groundwater tax, swiftlet nest tax, land and building tax in villages and cities, and fees for the acquisition of rights to land and buildings. Among local taxes, the restaurant tax has significant potential to increase Local Own-Source Revenue (PAD).

Restaurant tax is a tax on services provided by restaurants, eateries, cafeterias, and similar establishments, with a maximum rate of 10% levied on the end consumer. This tax is set by the local government, not the central government, and is applied to transactions involving food and drink consumed on the premises or taken away.² The state sets the regulation, so restaurants have no choice but to comply.

However, the problem arises when someone wishes to purchase a meal priced at Rp. 40,000.00 as stated on the restaurant menu. Upon payment to the seller, the meal's price is Rp. 44,000.00 because a 10% restaurant tax was added to the receipt without prior notification to the customer. Meanwhile, the customer believes they only need to pay Rp40,000.00, not Rp44,000.00, and assumes that paying the tax is the seller's responsibility, not theirs.

Essentially, in a sale and purchase transaction, the terms regarding the goods being sold must be clear, and the transaction must be carried out willingly without coercion from any party. This is intended so that all parties

¹ Fauzi Yati, 'Restaurant Tax from an Islamic Economic Perspective (A Study of Restaurant Tax Payment Practices in the City of Padang)', *Ijtihad*, 36.1 (2020), pp. 1–16.

² Prisma Winda Aniva Nutqi and Karimatul Khasanah, 'Analysis of Islamic Law and Positive Law Regarding Food Sales Contracts with Additional Tax', *El Hisbah: Journal of Islamic Economic Law*, 2.1 (2022), pp. 85–98.

involved in the sale and purchase may receive blessings and benefits. In this situation, the buyer feels aggrieved because the seller did not provide clear information beforehand about an additional tax on every food item sold.³

In *muamalah* (commercial dealings), one of the permitted activities is buying and selling. Buying and selling, in this context, involve exchanging one item for another or for money, whereby one party relinquishes ownership to the other by mutual consent. From an Islamic perspective, buying and selling are regarded as good things because they can serve as a means of worship or of drawing closer to Allah SWT, provided that this activity does not conflict with the principles of Islamic law.⁴ The legal basis for buying and selling is as stated by Allah SWT in Surah Al-Baqarah, verse 275:

اللَّهُوَأَحَلَّ الْبَيْعَ وَحَرَّمَ الرِّبَا

“Allah has made trade lawful and usury unlawful”.

In Islamic economic law, the word for tax in the original language is *dharibah*. This word derives from the root *dharaba-yadhribu-dharban*, which means to compel, regulate, determine, explain, or impose a burden. In technical terms, *dharibah* is wealth taken compulsorily by the state, except for *al-jizyah* and *al-kharaj*.⁵

In Islam, taxation remains a topic of ongoing debate. There are various views on whether taxation is permissible. Those scholars who agree with taxation associate it with *dharibah*. The term *dharibah*, when used in taxation, can be understood as an additional burden placed upon Muslims after they have already paid their zakat.⁶

Dharibah has several meanings, but religious scholars use the term to refer to wealth collected as a duty and serving as a source of state funding. On the other hand, *kharaj* differs from *dharibah* in that *kharaj* is a tax levied on property owned by non-Muslims. *Jizyah* relates to the soul and is also levied on non-Muslims. Although the objects of taxation vary, *jizyah* and

³ Vepri Anti Siregar and Nurhotia Harahap, ‘The Practice of Buying and Selling Chicken’, *Jurnal EL-THAWALIB*, 3.1 (2022), pp. 145–57.

⁴ Hendi Suhendi, *Fiqh Muamalah* (Raja Grafindo Persada, 2017).

⁵ Muh Nudur and Sri Hazwani, ‘An Islamic Economic Law Review of the Restaurant Tax Collection System at the Polewali Mandar Regency Revenue Agency’, *J-ALIF Journal of Research on Sharia Economic and Social Law*, 5.2 (2020), pp. 86–105.

⁶ Fauzi Yati, ‘Restaurant Tax from an Islamic Economic Perspective (A Study of Restaurant Tax Payment Practices in the City of Padang)’, *Ijtihad*, 36.1 (2020), pp. 1–16.

kharaj are still considered to be collected through the *dharibah* method, which means that their collection is compulsory.⁷

The legal basis for taxation in the Qur'an and Hadith is not explicitly stated; taxation stems from *ijtihad* and the thinking of the Companion Umar ibn al-Khattab, who focused on the interests of the *ummah*. Subsequently, this concept was continued and expanded by scholars and leaders to establish the system.⁸

The absence of clear rules on taxation in Islamic law has led to many differences of opinion among Islamic legal scholars on the status and legality of taxation. This raises questions about how taxation is viewed in Islamic law, particularly according to the opinions of the imams of the schools of thought, such as Imam Abu Hanifah, Imam Malik, Imam Shafi'i, and Imam Ahmad bin Hanbal. Scholars hold differing views on whether the government may levy additional taxes beyond *zakat*, particularly regarding the conditions, objectives, and limitations of their application.

Furthermore, the imposition of food taxes on consumers is also linked to the principles of fairness in business and consumer protection. In Islam, every economic transaction must be conducted transparently, without causing harm to either party, and must avoid ambiguity and loss. Therefore, it is important to examine whether levying food taxes on consumers aligns with these principles or could instead lead to injustice in commercial transactions.

Given this background, an in-depth study is required on how Islamic law views the imposition of a food tax on consumers. This study is essential to provide a comprehensive understanding of the status of taxation in Islam, particularly through a normative analysis based on the opinions of the imams of the *madhhabs*.

Data and Method

This study employs a qualitative research method with a normative legal approach. It examines theories and concepts, as well as the laws relating to the topic under investigation. The normative legal approach is a type of legal research that views law as a set of rules and standards. This system encompasses the fundamental concepts, rules, and laws derived

⁷ Ahmad Hapi Badali, 'The Concept of Taxation from an Islamic Perspective', *Jurnal Religion: Journal of Religion, Society, and Culture*, 1.5 (2023), pp. 653–61.

⁸ Royani, Yadi Janwari, and Sofyan Al-Hakim, 'Fiscal Policy in Islam (Pre-Revelation Period, the Era of the Prophet and the Rightly Guided Caliphs)', *AL-AFKAR: Journal for Islamic Studies*, 7.2 (2024), pp. 578–605, doi:10.31943/afkarjournal.v7i2.1041.Fiscal.

from legislation, treaties, and doctrine.⁹ Normative legal research is a legal study that focuses on literature sources through the examination of library materials or secondary data. This research is conducted to obtain information on theories, concepts, legal principles, and legal regulations related to the topic under discussion.

The sources of information used in this study are secondary in nature, namely, data obtained through literature reviews to seek information on various concepts, theories, views, opinions, doctrines, and legal principles directly related to the issue under investigation. The author will conduct a literature review examining theories and opinions within Islamic law on the imposition of food taxes on consumers. The data will be analyzed using a qualitative descriptive approach through several stages: data collection, data reduction, data presentation, and conclusion drawing or verification.

Results and Discussion

A. The Concept of Taxation from an Islamic Law Perspective

According to Islamic teachings, taxation is one of many forms of interaction within the economic sector. If zakat, infaq, and sadaqah—which constitute the state's primary sources of revenue—are insufficient to meet the state's needs, the state's leaders are entitled to decree that taxation should serve as an additional means of increasing revenue and covering the state's deficit or shortfall. Based on Sharia principles, the concept of taxation or *dharibah* has a very strong philosophical foundation. In Islam, taxation is an obligation on the community to help finance the state's development and operations for the benefit of society as a whole. However, when implemented, taxation must also adhere to the principles of justice, transparency, and accountability.¹⁰

In the Qur'an, the word *dharaba* functions as a verb, whilst its noun form (*isim*) is *dharribah*, meaning 'burden'. The term *dharibah* in the singular form becomes *dharib* in the plural. This term is referred to as a 'burden'

⁹ Sugiyono, *Quantitative, Qualitative and R&D Research Methods* (Alfabeta, 2020).

¹⁰ Niken Baramurti et al., 'The Islamisation of the Concept of Taxation According to Syed M. Naquib Al-Attas', *Jurnal Ekonomi Syariah Pelita Bangsa*, 10.1 (2025), pp. 11–20, doi:10.37366/jespb.v10i01.2121.

because it imposes an additional obligation on wealth following zakat; consequently, in practice, it is perceived as a burden on the community.¹¹

There are various opinions among the *fuqaha* regarding the obligation of Muslims to pay taxes. Some consider that only zakat is obligatory, whilst others argue that there is an additional obligation in the form of a tax (*dharibah*) under certain conditions. Taxes in an Islamic context, such as *jizyah*, *kharaj*, *ushr*, *nawaib*, and *khums*, are recognized as financial instruments used for various purposes, including ensuring protection and meeting public needs. Some viewpoints regard taxation as an indirect command from Allah, as it involves obeying the directives of Ulil Amri (the government).¹²

Scholars who permit taxation base their view on the condition that the tax be voluntary and free from coercion. Such voluntary taxes are regarded as a gift/donation to the government. However, if taxation is regarded as a burden (*dharibah*), then it constitutes a compulsory levy and is declared a sunnah alongside the obligatory zakat. Although the majority of scholars permit taxation, some scholars consider it haram. The basis cited by the scholars who deem taxation haram lies in the Sunnah of the Prophet Muhammad (peace be upon him) as narrated by Uqbah bin Amir, may Allah be pleased with him, who stated: "No one who collects *taxes* will enter Paradise." (Reported by Abu Daud, Al-Hakim, and Ibn Khuzaimah from the narration of Muhammad bin Ishaq).¹³

Another perspective on the application of taxation relates to the principle of *maslahah*, whereby taxes collected by a state are used as capital to combat poverty, assist those unable to afford medical treatment, fund development, and so on. All such allocations of tax revenue have a positive impact on society and demonstrate that the benefits (*maslahah*) outweigh the harms (*mudharat*) caused.¹⁴

Islam views taxation as a civic duty to fund development and the running of the state for the common good. However, the implementation of taxation must adhere to the principles of justice, transparency, and accountability. The tax system in Islam emphasizes fairness in tax collection.

¹¹ Husnul Fatarib and Amalia Rizmaharani, 'Taxation from the Perspective of Islamic Economic and the Tax System in Islamic Justice', *Istinbath: Journal of Law*, 15.2 (2018), pp. 337–54.

¹² Ahmad Hapi Badali, 'The Concept of Taxation from an Islamic Perspective', *Jurnal Religion: Journal of Religion, Society, and Culture*, 1.5 (2023), pp. 653–61

¹³ Popi Adiyes Putra, Marliyah, and Pani Akhiruddin Siregar, 'Zakat and Taxation from a Sharia Perspective', *Al-Mutharahah: Journal of Research and Religious Social Studies*, 20.1 (2023), pp. 79–92, doi:10.46781/al-mutharahah.

¹⁴ Fatarib and Rizmaharani, 'Taxation from the Perspective of Sharia Economic Law (The Concept of Tax and the Tax System in Islamic Justice)'..

Tax collection should not place an excessive burden on any individual or specific group. There is a principle of equality in tax obligations, whereby everyone should pay according to their economic capacity.¹⁵

Based on the above explanation, it can be concluded that Islam, in principle, permits taxation provided that its purpose is for the common good and it is managed fairly and transparently. Both classical and contemporary scholars emphasize that the government has a responsibility to safeguard the welfare of the people, including through infrastructure development, education, and security. Therefore, taxation can be viewed as a form of citizen participation in supporting these functions, provided it does not conflict with the principle of justice or replace primary obligations such as zakat.

B. The Imposition of Food Taxes on Consumers According to the Opinions of the Madhhab Imams

The business sector, particularly the culinary industry, is currently experiencing rapid growth in Indonesia. Consequently, technological advancements and changing times present numerous business opportunities, making it easier for individuals to identify ventures to pursue and achieve success. The proliferation of food stalls has directly increased the number of customers visiting restaurants, meaning every restaurant owner must comply with relevant tax regulations.

In fact, taxation as a source of state revenue is not permitted under the Qur'an and the Hadith, as Islam has established the obligation of zakat for those who meet the criteria. However, situations may arise where zakat is insufficient to support state funding; in such circumstances, taxation may be levied under clear conditions established by experts. Taxation is a form of economic transaction that serves to meet the needs of the state and society by funding various collective requirements.¹⁶

Scholars hold differing views regarding the permissibility of the government collecting taxes in addition to zakat. Zakat is only obligatory on wealth that has reached a certain nisab. The aim is to ensure that the collection of zakat from surplus wealth feels light and does not burden people. This aligns with the principle of taxation that exempts individuals with incomes below the basic subsistence level from tax. On the other hand,

¹⁵ Daryanti, Asriyana, and Astuty Hasti, 'Tax Ethics and Justice from an Islamic Perspective', *AKMEN: Scientific Journal*, 21 April (2024), pp. 61–70.

¹⁶ Intan Prameswari Maharani, Kherninda Pebrina, and Nabila, 'Taxation in Islam', *Jurnal Religion: Journal of Religion, Society, and Culture*, 1.5 (2023), pp. 27–32.

scholars such as Yusuf al-Qardhawi argue that collecting taxes is permissible for the public interest, as the government's budget is insufficient to meet various needs. If such expenditure is not incurred, negative consequences will result, and avoiding harm is an obligation.¹⁷

Scholars of the schools of thought, such as Imam Shafi'i, Hanafi, Maliki, and Hanbali, permit the imposition of taxes because the funds raised can be utilized for the public good, such as development and poverty alleviation. Taxation is regarded as part of the principle of public good, aimed at maintaining social welfare.¹⁸ However, regarding food taxes, this depends on the method of collection; if this method involves uncertainty, then it becomes haram.

In practice, business operators employ three methods for levying food taxes. Firstly, some do not add tax to the selling price of food, meaning the restaurant owner bears the full tax burden each month. Secondly, the business owner combines the food price with the tax cost so that consumers purchase them as a single unit and are aware that the price paid already includes tax. Thirdly, business owners separate the tax in food sales transactions by setting the food price and the tax separately.

Under this third system, customers usually assume that the price of the food ordered matches that listed on the menu; however, upon payment, the amount paid does not match because there is an additional tax of which the customer was previously unaware. This results in an increase in the food's selling price due to the tax the seller collects from the customer, namely the restaurant tax.

Such transactions may be regarded as involving uncertainty, as the contract lacks certainty or clear information regarding the price the buyer must pay, given the additional tax and the lack of clarity about the amount of that tax on the food sold by the seller.¹⁹

Based on the above explanation, it can be understood that the scholars of the schools of thought, in principle, agree that the state may levy taxes (*dharibah*) under certain conditions, particularly when the state treasury is insufficient to meet general needs such as security, welfare, and public

¹⁷ Fauzi Yati, 'Restaurant Tax from an Islamic Economic Perspective (A Study of Restaurant Tax Payment Practices in the City of Padang)', *Ijtihad*, 36.1 (2020), pp. 1–16.'

¹⁸ Noval Muhammad Zaini et al., 'The Concept of Taxation in Al-Mawardi's Thought and Its Implementation in the Islamic Economic System', *Maslahah: Journal of Sharia Management and Economics*, 3.3 (2025), pp. 52–62.

¹⁹ Abrar Anugrah, Abdi Wijaya, and M Arafah, 'Increased Tax on Food Sales in Makassar; A Comparative Study of Positive Law and the Shafi'i School', *SHAUTUNA: Student Journal of Comparative Madhhabs*, 03.3 (2022), pp. 489–502, doi:10.24252/shautuna.vi.28006.

services. This permissibility is based on the principles of public interest and justice, provided that the tax is not levied unjustly and is genuinely used for the benefit of society. The imams of the schools of thought, such as Imam Abu Hanifah, Imam Malik, Imam Shafi'i, and Imam Ahmad ibn Hanbal, emphasized the importance of the authorities' role in safeguarding the public interest, which, in emergencies, may include the collection of additional taxes beyond zakat.

However, in the practice of food taxation, all the imams of the schools of thought explicitly prohibit transactions involving *gharar*—that is, uncertainty or a high element of speculation in a contract—as this may harm one of the parties and contradicts the principle of justice in commercial dealings. Thus, although Islam allows flexibility in taxation for the public good, it strictly prohibits economic practices involving uncertainty and potential for fraud, such as *gharar*.

Conclusion

Based on the discussion above, this study concludes that Islam, in principle, permits taxation provided that its purpose is for the common good and it is managed fairly and transparently. Both classical and contemporary scholars emphasize that the government has a responsibility to safeguard the welfare of the people, including through infrastructure development, education, and security. Therefore, taxation can be viewed as a form of citizen participation in supporting these functions, provided it does not conflict with the principle of justice or replace primary obligations such as zakat.

The imams of the schools of thought agree that the state may levy taxes (*dharibah*) under certain conditions, particularly when state coffers are insufficient to meet general needs such as security, welfare, and public services. This permissibility is based on the principles of public interest and justice, provided that taxes are not collected unjustly and are genuinely used for the benefit of society. However, buying and selling practices involving *gharar*—that is, uncertainty or a high element of speculation in a contract—are not permitted, as they may harm one of the parties and contradict the principle of justice in commercial transactions.

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